IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2017

CORAM :

The Hon'ble MR.JUSTICE M.SUNDAR

W.P. No.20494 of 2004
and
W.M.P.Nos.24674 and 33424 of 2004

S.Kathiresan Poosari .. Petitioner

-vs-

1.The Commissioner,
Hindu Religious and Charitable
Endowments Dept., Nungambakkam
High Road, Chennai.

2.The Assistant Commissioner/Executive Officer,
Arulmigu Mariamman Thirukoil,
Irukkankudi, Sattur Taluk,
Virudhunagar District.

3.P.Ramar Poosari .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari to call for the records pertaining to the orders passed by the second respondent herein in his proceedings No.Na.Ka.No.134/2004 A5 dated 10.07.2004 as far as item no.2 pertaining to navathanyam and marakkal kaikkal and to quash the same.

For Petitioner : No appearance

For Respondents : Mr.M.Maharaja
Spl. Govt. Pleader for R-1
: M/s.Suganyadevi Duraichamy
for R-2
: No appearance for R-3

* * * * *

ORDER

This writ petition arises under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959), which is hereinafter referred to as 'TNHR&CE Act' for the sake of brevity.

2.Subject matter of the writ petition is with regard to rights to collect the offerings made in a temple, by name 'Arulmigu Mariamman Thirukoil, Irukkankudi, Sattur Taluk, Virudhunagar District', which is hereinafter referred to as 'said temple', for the sake of brevity, convenience and clarity. The specific offerings made in the said temple, which is specific subject matter of this writ petition is, mentioned as Item No.2 in a notice, bearing Ref. Na.Ka.No.134/2004 A5 dated 10.07.2004, which is impugned in this writ petition.

3.It is the admitted case of the writ petitioner (as is evident from the writ affidavit) that the said temple is under the control, management and administration of the Tamil Nadu Hindu Religious and Charitable Endowments Department, Government of Tamil Nadu, which is hereinafter referred to as 'TNHR&CE Dept.', for brevity.

4.When the matter was called today, there was no representation for the writ petitioner and respondent No.3. Mr.Maharaja, learned Special Government Pleader, TNHR&CE Dept., is present on behalf of respondent No.1 and M/s.Suganyadevi Duraichamy, learned counsel, is present on behalf of respondent No.2. As there was no representation for the writ petitioner and the third respondent, the matter was passed over and called again an hour later. In the second call also, there is no representation for the writ petitioner and the third respondent.

5.On the basis of the submissions made by the learned Special Government Pleader appearing for the first respondent, it is clear that the writ petition itself has become infructuous. The learned counsel appearing on behalf of the second respondent / Assistant Commissioner cum Executive Officer also supports this submission and says that this position is correct. The details are set out infra in the paragraphs that follow.

6.The writ petitioner is one of the Poosaris in the said temple. The writ petitioner has assailed a public auction notice dated 10.07.2004 bearing Na.Ka.No.134/2004 A5 issued by the second respondent, with regard to Item No.2 alone. There are totally two items in the said notice. Item No.2 pertains to auction for rights to collect 'Navathanyam' (nine kinds of grains) and 'Mara Kai, Kal' (Fruits and Vegetables), which are received as offering in the said temple.

7.The writ petitioner Poosari would contend that they are entitled to appropriate the offering referred in Item No.2. This writ petition is predicated on that pivotal point.

8.As set out supra, this writ petition was filed on 13.07.2004. Pending writ petition, the first respondent before me, i.e., Commissioner, TNHR&CE Dept., has considered the request of the writ petitioner and made proceedings dated 08.09.2004 bearing Ref.Na.Ka.No.47988/04/U1. Learned Special Government Pleader has produced the records and also placed photocopies of the relevant portions of the records containing the order. In and by the said order dated 08.09.2004, the first respondent has passed an order saying that with regard to the above said offerings, i.e., Navathanyam and Mara Kai Kal in the said temple, two-third of the same shall be appropriated by the said temple and one-third of the same shall be given to the writ petitioner Poosari by way of cash equivalent. The first respondent / Commissioner has also said that the auction shall be conducted and the revenue generated from the auction shall be treated as cash equivalent, wherein two-third shall be appropriated by the said temple and one-third shall be given to the writ petitioner Poosari. Learned Special Government Pleader would also state that pursuant to such orders, auction was conducted and one-third portion of the amount has also been duly received by the writ petitioner Poosari. The receipts in this regard, which are part of official records, have also been placed before this Court.

9.Furthermore, it is seen that the impugned notice pertains to only one Fasli, namely, 1414, which translates to 16.07.2004 to 30.06.2005. Therefore, nothing survives in the writ petition and for all practical purposes, the writ petition has become infructuous, as the prayer of the writ petitioner has been addressed and acceded to in a manner that is acceptable and satisfactory to the writ petitioner and one-third apportionment has also been received by the writ petitioner pursuant to aforesaid proceedings.

10.The writ petition is, accordingly, disposed of. No costs. Consequently, W.M.P.Nos.24674 and 33424 of 2004 are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sra

To

1.The Commissioner,
Hindu Religious and Charitable
Endowments Dept., Nungambakkam
High Road, Chennai.

2.The Assistant Commissioner/Executive Officer,
Arulmigu Mariamman Thirukoil,
Irukkankudi, Sattur Taluk,
Virudhunagar District.

+1 cc to M/s.M.Sriram Advocate sr 51912

W.P.No.20494 of 2004

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